

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Stanley Linder,)
Plaintiff,) No: 1:16-cv-754-RMG
v.)
Maverick Wilson; Angelena Brown;)
Tonya James; and Sgt. Thomas,)
Defendants.)

)

ORDER

This matter comes before the Court on the Report and Recommendation (“R & R”) of the Magistrate Judge recommending that the Court grant Defendant James’s motion to dismiss. (Dkt. No. 30). For the reasons set forth below, the Court **ADOPTS** the R & R and **GRANTS** Defendant James’s motion to dismiss.

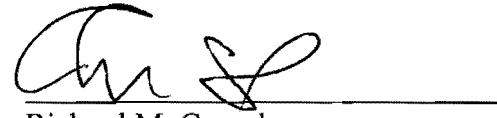
Plaintiff brought this action *pro se*, alleging that Defendant Wilson placed contraband in Plaintiff’s legal mail and subsequently charged Plaintiff with smuggling contraband. (Dkt. No. 1 at 3). Plaintiff alleges that Defendant James was “associated with fabricating this charge.” (*Id.*). Defendant James filed a motion to dismiss for failure to state a claim (Dkt. No. 18), and Plaintiff filed a response (Dkt. No. 27). The Magistrate Judge subsequently issued an R & R recommending that this Court dismiss grant Defendant James’s motion to dismiss because Defendant James has Eleventh Amendment immunity when acting in her official capacity, and Plaintiff has failed to allege that Defendant James was liable as an individual or in a supervisory capacity. (Dkt. No. 30 at 3–4). Plaintiff has not filed any objections to the R & R.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making

a de novo determination of those portions of the R & R to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where the plaintiff fails to file any specific objections, the Magistrate Judge’s conclusions are reviewed only for clear error, *see Diamond v. Colonial Life & Accident Insurance Co.*, 416 F.3d 310, 315 (4th Cir. 2005), and this Court is not required to give any explanation for adopting the recommendation of the Magistrate Judge, *Camby v. Davis*, 718 F.2d 198 (4th Cir. 1983).

The Court, having reviewed the complaint, Plaintiff’s response to Defendant’s motion to dismiss, and R & R, finds no clear error, and agrees with and adopts the R & R as the order of the Court. Accordingly, the Court therefore **GRANTS** Defendant James’s motion to dismiss. (Dkt. No. 18).

AND IT IS SO ORDERED.



Richard M. Gergel
United States District Court Judge

August 30, 2016
Charleston, South Carolina